

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	Case No. 2543
)	
MARILYN WELLS, D.O.)	STIPULATION AND CONSENT
Holder of License No. 2111 for the)	ORDER SUSPENSION OF LICENSE
practice of osteopathic medicine in the)	
State of Arizona.)	
_____)	

STIPULATION

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Marilyn Wells, D.O. (hereinafter "Respondent"), the parties hereto agree to the following disposition to this matter.

1. Respondent acknowledges that she has read this Stipulation and the attached Consent Order; and, Respondent is aware of and understands the content of these documents.
2. Respondent understands that by entering into this Stipulation, She voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the consent order in state or federal court.
3. Respondent understands that this Stipulation and Consent Order will not become effective unless approved by the Board and signed by its Executive Director.
4. Respondent further understands that this Stipulation and Consent Order, once approved and signed, shall constitute a public records which will be disseminated as a formal action of the Board as required by A.R.S. §§ 32-1855 (L) and (K).
5. Respondent admits to the statement of facts and conclusions of law contained in the Stipulated Consent Order.

6. All admissions made by Respondent are solely for final disposition of this matter and any subsequent administrative proceedings or litigation involving the Board, Respondent and the State of Arizona; and, therefore, said admissions by Respondent are not intended for any other purpose or administrative regulatory proceeding or litigation in another state or federal court.

7. Respondent acknowledges and agrees that upon signing and returning this document (or a copy thereof) to the Board's Executive Director, she may not later revoke or amend this Stipulation or any part of the Consent Order, although said Stipulation has not yet been accepted by the Board and issued by its Executive Director, without first obtaining Board approval.

REVIEWED AND ACCEPTED this 23rd day of November, 1998.

Marilyn Wells, D.O.
Marilyn Wells, D.O.

STATE OF ARIZONA)
) ss
County of Maricopa)

This instrument was acknowledged before me this 23rd day of November, 1998 by the above-named individual.

Notary Public

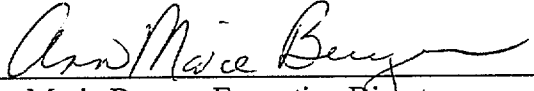
My Commission expires:

Witnessed by Lisa Platt

REVIEWED AND APPROVED as to form by counsel for Respondent on this ____ day of
November, 1998.

Robert Bohm, Esq.

REVIEWED AND SIGNED this 23rd day of November, 1998 for the Board by:



Ann Marie Berger, Executive Director
Arizona Board of Osteopathic Examiners in Medicine
and Surgery

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:

MARILYN WELLS, D.O.
Holder of License No. 2111 for the
practice of osteopathic medicine
in the State of Arizona.

) Case No. 2543

) **CONSENT ORDER FOR TEMPORARY
SUSPENSION OF LICENSE**

FINDINGS OF FACT

1. The Board is empowered, pursuant to A.R.S. § 32-1800, et seq to regulate the licensing and practice of osteopathic medicine in the State of Arizona.

2. Respondent is a licensee of the Board and the holder of License No. 2111 for the practice of osteopathic medicine in the State of Arizona.

3. Information was brought to the attention of the Board that Respondent may be medically and/or psychologically unable to safely and skillfully engage in the practice of medicine and may have committed one or more acts of unprofessional conduct as defined in A.R.S. § 32-1854:

- a. On or about November 10, 1998 the Board received information from a Gary Lohmeier, R.Ph., pharmacist for S & G Pharmacy alleging that Respondent was attempting to acquire Demerol injectible under a false identity. On November 11, 1998 the pharmacy clerk at the S & G Pharmacy provided a positive identification to the Board's Staff from the licensing photograph of Respondent stating that Respondent had attempted to receive 30ml MDV Demerol injectible under the name of Mary Taylor prescribed by Respondent.

- b. On November 10, 1998 a prescribing history was requested of Walgreen's corporate office which was received on November 20, 1998. The Walgreen's prescribing history for Respondent noted that Respondent was prescribing Demerol injectable to several of her patients.
 - c. On November 20, 1998 the Board's Executive Director issued an Order to Submit to Biological Testing and subpoena the patient records of those prescribed Demerol injectable to Respondent.
 - d. Upon receipt of the Board Order and subpoena, Respondent admitted to prescribing Demerol injectable under assumed names as well as forging the prescriptions of her associates. Respondent claimed that she was prescribing the medication due to physical injuries causing chronic pain.
3. In public session, the Board voted on November 23, 1998 that Respondent was medically and/or psychologically unable to engage in the practice of medicine and was an immediate threat to the health and welfare of the public.

CONCLUSIONS OF LAW

The aforementioned conduct alleged against Respondent constitutes unprofessional conduct as defined at A.R.S. § 32-1855:

- (3) Practicing medicine while under the influence of alcohol, narcotic or hypnotic drugs or any substance that impairs or may impair the licensee's ability to safely and skillfully practice medicine.
- (5) Prescribing, dispensing or administering controlled substances or prescription only drugs for other than accepted therapeutic purposes.

- (6) Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard.
- (15) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine except as the same may be necessary for accepted therapeutic purposes.
- (19) Any conduct or practice contrary to recognized standards of ethics of the osteopathic medical profession.
- (20) Failing or refusing to maintain adequate records on a patient.
- (21) Using controlled substances or prescription-only drugs unless they are provided by a medical practitioner, as defined in section 32-1901, as part of a lawful course of treatment.
- (37) Violating a federal law, a state law or a rule applicable to the practice of medicine.
- (38) Prescribing or dispensing controlled substances or prescription-only medications without maintaining adequate and appropriate patient records.
- (40) Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.
- (41) Any conduct or practice that impairs the licensee's ability to safely and skillfully practice medicine or that may reasonably be expected to do so.

ORDER

Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED THAT:**

1. Marilyn Wells, D.O. ("Respondent") shall refrain from the practice of osteopathic medicine and surgery until she has complied with the following terms and conditions of this

agreement:

- a. Respondent will successfully complete the in-patient evaluation for possible chemical dependency at either Springbrook Northwest in Newberg, Oregon (hereinafter "Springbrook") or Talbott Recovery Center in Atlanta, GA (hereinafter "Talbott"). Should Springbrook or Talbott find an assessment of chemical dependency, Respondent will follow the recommendations for treatment.
 - b. Respondent will develop a plan for aftercare treatment and monitoring which shall include, but may not be limited to, individual and/or group counseling sessions, random body fluid testing, agreement for release of treatment records and reports to the Board, prohibition of the use of alcohol and controlled substances unless the latter is prescribed or coordinated by her treating physician, and regular meetings with the Board, and submit this plan to the Board for its approval.
2. Respondent will sign a release authorizing personnel at Springbrook or Talbott inform the Board of her progress as to her in-patient evaluation and any in-patient treatment program, and will provide the Board with a copy of any and all records pertinent to her diagnosis and treatment while a patient at said facility and upon discharge.
3. Upon written request by the Respondent, Respondent will meet with the Board upon reasonable notice after discharge from Springbrook Northwest or Talbott to discuss her compliance with this agreement and to discuss whether or not she should resume the practice of osteopathic medicine and the terms and conditions under which she will be allowed by the Board to resume the practice of osteopathic medicine and surgery in the State of Arizona
4. Respondent shall provide a copy of this Order and any subsequent Orders to all facilities where Respondent is currently (or subsequently) employed as a physician and/or has (or subsequently receives) privileges to engage in the practice of medicine; and, Respondent shall continue to make the aforementioned disclosure and provide the copies of this Consent Order until the expiration of this Order.

5. Should Respondent fail to comply with any of the terms and conditions of this stipulation and agreement, the Board may, upon notice and opportunity to be heard, take disciplinary action against her license to practice osteopathic medicine and surgery in the State of Arizona.

6. In the event Respondent ceases to reside in Arizona, he will give written notice to the Board of her new residence address within twenty (20) days of moving; and, the terms and duration of suspension may be stayed by the Board until Respondent returns to Arizona.

7. Respondent will continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 32-1825.

8. The Board's Executive Director will send correspondence to the appropriate state and/or federal law enforcement agency disclosing information in the Board's possession which may establish criminal misconduct by Respondent, i.e., illicit use of controlled substances and obtaining controlled substances illegally.

9. The Board may require that Respondent as part of his temporary suspension: (A) submit to and cooperate in any independent medical or psychological evaluation that is ordered by the Board for Respondent and conducted by the Board's designated physician/or psychologist which will be paid for by Respondent; and (B) appear before the Board, upon receipt of a request by written or telephonic notification from the Board's Executive Director which will be given at least five (5) days prior to the Board meeting; and, (C) submit to random biological fluid testing and promptly provide (i.e. within sixty (60) minutes of notification) required biological fluids for testing and said testing will be done at the Respondent's expense.

10. Respondent will reimburse the Board for all expenses associated with the investigation, hearing and continued monitoring of this matter within sixty days of receipt of the

request for payment.

11. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and will be considered as grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.

ISSUED this 23rd day of November, 1998.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Ann Marie Berger
Ann Marie Berger, Executive Director
9535 E. Doubletree Ranch Rd.
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Served by personal service or
sending U.S. certified mail
this 23rd day of November, 1998 to:

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